

CRS Issue Brief for Congress

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Postal Reform

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Postal Reform

SUMMARY

Although its short-term financial prospects have unexpectedly brightened by discovery that retirement obligations are less burdensome than presumed, the U.S. Postal Service (USPS) faces severe financial straits in the long term. Business use of the mails is declining as alternatives such as e-mail, faxes, and cell phones substitute for hard copy letters. The economic slowdown that began in 2001 has cut into advertising mail. On top of this, the anthrax attack of October 2001 has affected volume and added billions in costs for mail sanitization. Despite three rate increases in 18 months, USPS lost well over \$2 billion in FY2001 and FY2002, and built up a \$11.9 billion debt to the Treasury. It has a negative net worth and mounting obligations for retiree health benefits. USPS would be bankrupt but for the fact that it is a government entity, with Treasury borrowing rights.

USPS, its board of governors, GAO, mailers' organizations, and most recently a presidential blue-ribbon commission have said that the Postal Reorganization Act of 1970 no longer provides a viable business model. It is dependent on rising mail volume to cover the ever-increasing cost of arbitrated labor settlements, legislated benefits, and the addition of 1.7 million new delivery points each year, yet volume has begun to fall. The rate setting process is cumbersome and tendentious.

USPS has asked Congress for authority to change rates more flexibly, close post offices and processing centers, and negotiate tailored service agreements and volume discounts for big mailers. Most postal stakeholders think that the USPS monopoly lines — first class, periodical, and advertising mail — are a declining business, and want USPS to compete in other markets that are growing. Competitors in those markets resist because

USPS pays no taxes and is immune from most government regulation. USPS has had little success to date in developing commercially competitive products.

Passage of P.L. 108-18, the Postal Civil Service Retirement System Funding Reform Act of 2003, enabled USPS to pay down its debt by about \$3 billion per year, and defer further rate increases to 2006. However, Congress recognized that two of its provisions must be revisited. One required USPS to set aside future pension savings in an escrow fund; that will require a 5.4% increase in postal rates with no operational benefit. The other transferred the obligation to pay pension benefits for military service from the Treasury to USPS, costing ratepayers \$27 billion.

On July 31, 2003, a blue-ribbon commission appointed by President Bush issued a report recommending changes consistent with reform legislation that has been brewing for years, but also recommending controversial workforce changes. Bi-partisan postal reform bills were reported unanimously by the House Committee on Government Reform and by the Senate Governmental Affairs Committee on June 2. Neither made it to the floor. Both bills drew more on previous reform efforts in Congress than on the recommendations of the President's Commission. Both would have relieved USPS of the military pension and escrow requirements, which the Administration opposes. It said that the modest reforms in the bills did not justify these additions to the budget deficit, and proposed new flexibility to cut back on the high cost of postal labor.

Representative John McHugh has re-introduced the House version of postal reform, without significant changes, in the 109th Congress as H.R. 22.

MOST RECENT DEVELOPMENTS

The most significant postal reform legislation in 30 years was reported unanimously by the House Government Reform Committee on May 12, 2004, and by the Senate Governmental Affairs Committee on June 2. Despite support from mailers, unions, and even USPS competitors like FedEx and United Parcel Service (UPS), neither bill was scheduled for floor action in the 108th Congress. House Government Reform Committee Chairman Tom Davis told the House on December 7 that postal reform is “an urgent issue that we must address in the opening months of the next Congress.” A very similar bill, H.R. 22, was introduced on the first day of the 109th Congress.

In December the Administration circulated a statement critical of the legislation, saying that it lacked substantial reform and would involve costs to the unified budget because it would allow the Postal Service to spend funds collected for pension obligations on operational needs. The Administration urged a number of changes, and that the legislation include provisions relating to reducing the physical network structure and to labor contract negotiations, subjects not addressed in the legislation cleared by committee.

BACKGROUND AND ANALYSIS

Postal Service management, its board of governors, the Government Accountability Office (GAO), most stakeholders, and most lately a presidential commission have concluded that the Postal Reorganization Act of 1970 no longer provides a viable business model for a successful postal enterprise at the turn of the century. That act had taken postal affairs out of the direct control of either Congress or the President. It made the U.S. Postal Service (USPS) an independent establishment of the executive branch, directed by a postmaster general selected by, and serving at the pleasure of, a part-time board of governors appointed by the President with the consent of the Senate. USPS was permitted to operate using business principles, and charged with generating enough revenues to support the costs of the service it provides by allocating those costs among the many users of the postal system. That allocation has been accomplished through periodic rate cases before the Postal Rate Commission (PRC), a five-member regulatory commission that considers cost data and the conflicting views of competitors, unions, and users of the many classes of mail in a 10-month adjudicative process leading to new rates and classification requirements.

The legal and regulatory framework established by the act served reasonably well for nearly three decades. Delivery service and customer satisfaction improved, USPS survived without general appropriations since 1983, rising mail volumes covered the costs of adding new routes and delivery points each year, and prices rose generally in line with inflation. Postal issues came to be perceived as minor enough that postal service committees and eventually even subcommittees disappeared from the congressional organization chart. However, few who are familiar with postal affairs believe that Congress can ignore the current state of the enterprise. USPS admits that its business model no longer works in the 21st century, and Comptroller General David Walker testified bluntly on May 13, 2002, before a Senate Governmental Affairs subcommittee that the institution’s current course is “unsustainable.” In 2003, a blue-ribbon President’s Commission on the United States Postal Service came to the same conclusion.

USPS has been operating in a mode of financial crisis since early 2001, when both the House and the Senate held hearings on the deteriorating financial condition of the enterprise. GAO has issued a number of reports that portrayed a steadily growing sense of urgency, and placed the transformation of the Postal Service on its list of High Risk programs. Among the indicators of an impending crisis were the following:

- Despite desperate cost-cutting measures, a freeze on facilities, and severe limits on productivity investments, revenues were falling faster than expenses. USPS suffered losses of more than \$2 billion in 2001 and 2002.
- Mailers warned of an “economic death spiral,” as falling mail volume forced price increases to cover fixed costs, and the price increases led to further drops in volume as businesses seek more cost-effective alternatives.
- Liabilities continued to exceed and grow faster than assets, a condition that GAO said would mean bankruptcy if USPS were not a government entity.

Causes of the Financial Crisis

While there are differences among the stakeholders in emphasis, the following factors have been identified as being in part responsible for the financial crisis of 2001-2002:

- The economic slowdown that began in early 2001 cut into USPS revenues from the dominant business segment, and reduced advertising mail, which accounts for 25% of revenues. Costs continue to rise, however, since 1.7 million delivery points are added each year, built-in wage and cost-of-living increases add \$2 billion per year, and USPS is particularly vulnerable to energy price spikes.
- The rate determination process is cumbersome and rigid, preventing USPS from aligning its offerings with the variable needs of its customers. Preparations for a rate case begin many months before a filing with the Postal Rate Commission (PRC) and USPS must estimate costs and demand nearly two years into the future. The adversarial process of contesting proposed rates and classes goes on for 10 months, with exchanges of tons of paperwork and hundreds of hours of testimony. USPS competitors are very active participants. The emphasis is on allocating stated costs among mail classes rather than reducing costs or encouraging demand. USPS complains that the process gives it no opportunity to respond to competition, to vary rates with the season or periods of low usage, to negotiate rates with big mailers, or to price products in accordance with demand, rather than costs of service.
- Three rate increases in an 18-month period have driven some mailers to curtail volume in order to stay within set budgets, and made the comparative cost of alternatives — such as newspapers, television, and e-mail for advertising — more attractive.

- Competition from other providers and other media is marginalizing some of the services that USPS provides. E-mail, fax transmission, and cell phones without distance charges have become substitutes for written correspondence. The Internet is becoming increasingly popular as an alternative for financial billing and payment, which sustained USPS volume and revenue growth through the 1990s. USPS is already a secondary player in the overnight express and package delivery markets, except for the most difficult routes to service in Alaska and Hawaii.
- Labor costs of its nearly 800,000 employees account for over three-fourths of USPS expenses, not much less than was the case decades ago. In contrast, labor costs are 56% of United Parcel Service's expenses, and 42% of costs at FedEx, where only the pilots are unionized. Lagging productivity growth (11% in 30 years), a backlog of 146,000 pending or appealed labor grievances that are pursued "on the clock," and binding arbitration of disputes keep labor costs high. Costly government annual and sick leave, early retirement, and health benefits are set in law and not negotiable.
- Facilities are not optimally located for efficient distribution, since USPS has been unable to close existing facilities and consolidate operations in new locations. USPS maintains that over half its 38,000 facilities do not generate enough revenues to cover their costs, and complains that political considerations prevent it from modernizing its retail and distribution system.
- The use of mail to deliver agents of bio-terror (anthrax, and more recently, ricin) has imposed major new mail security and operational costs on USPS since late 2001. Although USPS received some emergency funds to cope with the new demands in FY2002, its requests for further funding to respond to the threat of bio-terrorism through the mail have not been included in the President's budget and have only partially been met by Congress.

The American Postal Workers Union (APWU) has been a vocal proponent of another ascribed cause for the postal financial predicament. The APWU told Congress in May 2002 that the "Postal Service's financial crisis is directly attributable to the \$12 billion in postage discounts it gives annually to major mailers and direct mail firms for pre-sorting their mail. The discounts equal significantly more than the costs the Postal Service avoids when it receives pre-sorted mail, and they amount to huge subsidies for the major mailers and direct mail firms." APWU believes that at least some of this revenue could be recovered if the work were brought back in-house.

The USPS Transformation Plan

When GAO placed the long-term outlook for USPS on its High Risk List in the spring of 2001, the Senate Committee on Governmental Affairs asked USPS to prepare a comprehensive plan to address its financial, operational, and workforce challenges, along with a time frame and key milestones for achieving positive results. USPS eventually came to welcome the opportunity to lay before Congress a comprehensive statement of what it needed to make its business successful.

USPS released its *Transformation Plan* in April 2002 with a substantial public relations effort. The plan contains 400 pages of historical and analytical information about changes in the postal business in the United States and throughout the world, and presents three alternative futures for USPS. It rejected the option of returning to government agency status, and depending on Congress to provide appropriations to maintain universal service as the gap between costs and revenues continues to widen. It also dismissed the prospect of privatization as likely to result in substantial layoffs, and inevitably leading to cuts in geographic coverage and services that do not pay for themselves. The option USPS favored is called the “Commercial Government Enterprise,” preserving government ownership but allowing USPS to operate under more businesslike conditions than what the 1970 Postal Reorganization Act provides.

While it lacked (as GAO pointed out) a detailed action plan, milestones, and concrete legislative recommendations, the transformation plan did propose a number of significant departures from the status quo. The following are among those likely to require congressional approval:

- An aggressive effort to “optimize the retail network” and “redesign the postal logistics network,” which would entail lifting the moratorium on closing post offices, streamlining the process for more closures, and reducing the number of processing centers.
- Negotiating service agreements and volume discount prices with the biggest mailers, exploring seasonal discounts and premiums, and phasing in new rates on a more predictable basis.
- Revamping contract talks with the unions to escape binding arbitration, moving eventually to a mediation process like that in the Railway Labor Act, which involves the President and Congress in averting strikes and encouraging reasonable settlements with the public’s interest paramount.
- Redefining universal service by adjusting service levels and the number of delivery days to a more affordable level.
- Changes in the incentive structure to permit USPS to retain any excess earnings, and remove the limit on executive pay tied to the federal executive schedule.
- Expanded freedom to use its assets for entering related markets and developing new products without skeptical scrutiny from the PRC.

Many of the initiatives proposed in the transformation plan could be undertaken under USPS’s existing authorities, and it suggested that others could be negotiated with a PRC that had become more cooperative in the wake of the terrorist attacks. However, Congress would need to act in both the short and the long term to achieve the most significant changes. One change urged immediately was the removal of annual appropriations language that restricts post office closings and mandates no reduction from the service levels that prevailed in 1983. Congress has not acted on the recommendations of the Transformation Plan, in part because the President appointed a blue-ribbon commission to review postal problems and issues.

Should the Postal Service Compete?

USPS itself, its unions, and many mailers' organizations believe that the survival of the Postal Service depends on the institution's ability to compete in active or developing markets, because the services it provides under its statutory monopoly are a declining business. Another school of thought, however, rejects the notion that USPS should compete with private sector companies who are able to provide services within the market economy.

There are several thrusts to the argument. One relates to fairness. USPS has many advantages stemming from its governmental status. It pays no federal, state, or local taxes on its income, sales, purchases, or property. Unlike private sector companies, it is immune from most forms of regulation, such as zoning, land use restrictions, motor vehicle registration, parking tickets, and antitrust. It is also able to borrow money at the lowest possible rate because it does so through the U.S. Treasury. Understandably, companies facing competition from USPS feel that they are at a great disadvantage.

A second argument is based on concepts of economic efficiency. Because of its indirect subsidies such as freedom from taxation and regulation, and because its goal is to break even rather than earn a competitive rate of return, USPS has less incentive than private sector entities to use capital and labor resources efficiently. Subsidies make government products and service seem artificially cheap, resulting in an over-allocation of resources that could be used to produce greater benefits elsewhere in the economy. Economic theory maintains that such a mis-allocation reduces national economic welfare below that achieved by a competitive market. When private sector companies produce and sell a product or service, there is some benefit to society from the taxes that result, a benefit not gained when the government produces the same product or service.

Finally, there is substantial evidence that USPS is not a very adept competitor. GAO has issued several reports of failed commercial ventures by USPS. In 1997, for example, USPS had discontinued or was losing money on 15 of 19 new products, resulting in a net loss of \$85 million. UPS and FedEx have both established profitable delivery networks in markets where USPS tries to compete but is now a relatively minor player.

One policy prescription leading from this diagnosis is that USPS should stick to its monopoly business and not seek to grow at the expense of private sector competitors. Indeed, some would like to see the postal monopoly reduced to "the last mile" of delivery, opening up collection, sorting, and transportation to market competition.

Recalculation of USPS Retirement Obligation

On April 23, 2003, President Bush signed into law the Postal Civil Service Retirement System Funding Reform Act of 2003, P.L. 108-18. The law was quickly passed without dissent in either chamber in response to a surprise finding by the Office of Personnel Management that future payments under current legislation would overfund USPS liability to the Civil Service Retirement Fund by \$71 billion. A principal reason is that interest earnings on past contributions have been credited at a statutory rate of 5%, when in fact the average rate of return on the bonds held by the trust fund has been substantially higher.

The act authorized USPS to reduce its annual payments by \$3.5 billion in FY2003 and \$2.7 billion in FY2004. The savings allowed USPS to nearly eliminate its \$11.9 billion debt to the Treasury and keep postage rates stable to 2006. While this development granted financial breathing room, Postmaster General John Potter said that it does “not in any way obviate the fundamental flaws in the Postal Service business model” and urged undiminished attention to postal reform.

P.L. 108-18 also required USPS and the Administration to report back to Congress on the use of future savings from the retirement funding reduction, and on the effects of another provision of the act which had transferred from the Treasury to USPS the obligation to cover military retirement costs of postal employees. In its report on use of the savings, USPS proposed using them to fund future retiree health benefits, currently a major unfunded liability. Its report on military pay asked Congress to reverse the provision of P.L. 108-18 requiring USPS to pay \$27 billion in military retirement costs for its employees, pointing out that more than 90% of the financial obligation is the result of military service performed before the Postal Service was created, and that no other agency has to bear these costs for its veterans. The Treasury/OPM report on behalf of the Administration defended the requirement that USPS, rather than the Treasury, pay these costs, calling their assignment to the Treasury “an historical accident.” GAO issued two reports on November 26, 2003, analyzing the differences between USPS and the Administration on the use of the future savings from the retirement funding reduction, and on the issue of responsibility for military retirement obligations of postal employees. GAO essentially said that the issues were matters of policy for Congress to decide.

Postal reform hearings in the 108th Congress focused in large part on the escrow and military pension issues, since they will have a very significant effect on postage rates. In the March 23 joint hearing, Senator Susan Collins said that not a single witness in the Senate’s previous six hearings had supported the Administration’s position that ratepayers, rather than taxpayers should be responsible for pension costs arising from prior military service by postal employees. The postmaster general said that the escrow requirement would add 5.4% to the next rate increase, and that the military pay obligation would push the postage increase to double digits even before operational cost increases are included. Treasury Secretary John Snow defended the military pension obligation as consistent with the principle that ratepayers and not taxpayers should be responsible for all postal costs. He recognized that the escrow requirement has no operational value, but said it could not be changed without finding offsetting savings in the congressional budget.

The President’s Commission on the United States Postal Service

A number of postal observers have believed for some time that political power is so thoroughly dispersed among stakeholders that only an independent blue-ribbon commission, rather than the legislative process, can devise a contemporary solution to today’s postal crisis. There is a notable precedent. In 1967, President Johnson appointed Frederick R. Kappel (the chief executive of AT&T) to chair a Commission on Postal Organization that eventually devised the framework for the Postal Reorganization Act of 1970. The USPS Board of Governors, the Association for Postal Commerce, the Mailers Council, GAO, the United Parcel Service (UPS), and some Members of Congress are among those who called on the President to create a new commission to study and make recommendations on the future

organization and function of the Postal Service. The president of the American Postal Workers Union, however, opposed the creation of a commission, believing that it would be a front for privatization initiatives.

On December 11, 2002, President Bush issued Executive Order 13278 creating a Commission on the Postal Service, forestalling congressional initiatives to create such a commission by statute. The co-chairmen of the commission were James Johnson, former CEO of Fannie Mae, and Harry Pearce, board chairman of Hughes Electronics. The other seven members included no one with close ties to postal stakeholders. Most were business executives, with one local labor leader, the president of Yale University, and Robert Walker, a former Member of Congress. The commission's website has hundreds of statements by interested parties on reform proposals before the commission. Public hearings concluded on May 29, and the commission issued its final 181-page report to the President, on schedule, on July 31, 2003.

The commission's report contains 35 recommendations, 18 of which would require some action by Congress. In many ways, the commission's approach is in the mainstream of postal reform discussions that have been underway among stakeholders since the mid-1990s. For example, the commission endorsed the basic structure of the 1970 Postal Reorganization Act, recommending that USPS "should continue to operate as an independent establishment within the executive branch with a unique mandate to operate as a self-sustaining commercial enterprise" and rejecting the alternative of privatization that many other developed countries have adopted. While keeping the basic government corporation model, the commission pressed in many of its recommendations that USPS should adopt the "best practices of similarly-sized private-sector corporations." These included an independent corporate-style board of directors that would perpetuate itself, greater financial transparency, expanded outsourcing for services, aggressive real estate asset management, and use of commercial purchasing practices. The commission said that USPS should not enter new lines of business, but adjust to a reduced demand for its products by becoming smaller.

The commission's recommendations with regard to regulatory controls are similar to recent congressional proposals. The Postal Rate Commission would be transformed into a new Postal Regulatory Board that would have authority to refine the scope of the universal service obligation and the postal monopoly, to establish limits and broad parameters within which USPS could set rates and negotiate service arrangements, to redefine pay comparability, and to assure that competitive products are not cross-subsidized by revenues from products protected by the monopoly.

While recommending that Congress eliminate current statutory restrictions on closing post offices for economic reasons, the commission did not press for an aggressive program of closing local post offices, pointing out that even some "low activity" post offices are needed to meet the universal service obligation. It placed much more emphasis on consolidating the 446 large processing facilities, recommending a Postal Network Optimization Commission to identify facilities to be closed with a fast-track congressional approval process comparable to the defense base closing process.

The aspect of the commission's report that has been the most controversial are four recommendations relating to workforce compensation, a subject that recent bills in Congress have conspicuously avoided. Referring to "persuasive testimony" that a postal compensation

premium may exist, the commission (with the one member from the labor movement dissenting) recommended major revisions to the current practice of binding arbitration of wage bargaining disputes, including the value of fringe benefits such as health care and early government retirement in bargaining over compensation, a redefinition of pay comparability to be made by the Postal Regulatory Board, and introducing some form of pay for performance into the compensation package. The American Postal Workers Union news bulletin denouncing the recommendations as “fundamentally dishonest” and “a disaster,” said the APWU would use every tool at its disposal to assure that none of them becomes law.

Activity in the 107th Congress

Although Congress became increasingly concerned about deterioration in USPS’s finances, little legislative activity occurred until late in the 107th Congress. The House Postal Service Subcommittee was not reconstituted in the 107th Congress. Representative John McHugh, who had chaired the Postal Subcommittee through six years of hearings largely devoted to postal reform, was term-limited as chairman. Formal congressional oversight was devoted largely to the anthrax crisis. In a House Government Reform Committee hearing on April 4, 2001, Chairman Dan Burton and ranking minority member Henry Waxman invited postal stakeholders to participate in a broad range of discussions aimed at the development of a bipartisan consensus bill, and these discussions proceeded for more than a year.

H.R. 4970 (McHugh, Burton)

Postal Accountability and Reform Act, introduced June 20, 2002. The bill was essentially a marriage of the former H.R. 22 (in both the 105th and 106th Congresses) with elements promoted by Representatives Waxman and Danny Davis, including the formation of a reform commission, and enhancing the role of the Postal Rate Commission. The PRC would be renamed the Postal Regulatory Commission, and be given substantial powers to monitor, investigate, and control the activities of the Postal Service within broad parameters, rather than being limited to considering rate requests. H.R. 4970 would divide postal operations between “competitive” and “market dominant” products. Competitive products would include Express Mail, Priority Mail, packages up to 70 pounds, and international mail. Market dominant products are traditional letter mail, advertising mail, periodicals, catalogs, and rural mail boxes — products on which USPS has a monopoly and can raise prices above costs without fear of losing market share. The bill would allow USPS to price competitive products according to market conditions, including discounts not available to all mailers. A new rate setting system for market dominant products would follow broad principles of flexibility, predictability, incentives to reduce costs and maintain service standards, and limits for price increases to no more than the annual rise in the consumer price index.

H.R. 4970 fell victim to legislative backlogs as the 107th Congress drew to a close. The USPS board of governors issued a letter of support for the draft, and a number of mailers groups were active in its support. A markup, repeatedly scheduled and delayed in the House Committee on Government Reform, finally took place on June 20, 2002. Committee Democrats, even though several had worked closely on development of the bill, refused to support reporting the bill from committee without a commitment from the House leadership that it would be brought to the floor before the end of the session. At the markup, several supporters criticized the influence of UPS, and of the International Brotherhood of Teamsters, which represents UPS employees. A roll call vote to report the bill gained only

six votes, all Republicans. Twenty members voted against it, and nine, all Democrats, voted “present.”

S. 2754 (Collins)

The United States Postal Service Commission Act of 2002, introduced July 18, 2002, would create a presidential commission on the Postal Service. The commission would be charged with studying the USPS mission, monopoly, regulatory and governing structure, efficiency, and infrastructure. It would be required to report within one year of its initial meeting, or 15 months after the date of enactment. The bill would forbid the President from appointing “stakeholders” to the commission, defining “stakeholder” to include any individual with close ties to USPS, including employees, competitors, or union representatives. The bill was obviated by President Bush’s appointment of the President’s Commission on the United States Postal Service as the 107th Congress drew to a close.

H.R. 5702 (Crane)

To provide for the privatization of the Postal Service, introduced October 28, 2002. The bill, co-sponsored by Representative Rohrabacher, was identical to H.R. 2589 in the 106th Congress. It would transfer USPS to a new private corporation, owned by its employees, and require the President to appoint a commission to submit a transfer plan to Congress.

Activity in the 108th Congress

Both the House Government Reform and the Senate Governmental Affairs Committees geared up for concentrated attention to postal issues in the 108th Congress. The incoming chair of the Senate committee announced that postal affairs would be handled at the full committee level. The House Government Reform Committee created a Special Panel on Postal Reform and Oversight for the 108th Congress, chaired by Representative McHugh. The key members of both the committee and the task force issued a joint statement following the President’s December 8, 2003, call upon Congress to act swiftly on postal reform. Representatives Tom Davis, Waxman, Danny Davis, and McHugh signaled their commitment to making postal reform “a top priority” for the second session of the 108th Congress.

Congress did act swiftly on the USPS request to change the formula for its contributions to the Civil Service Retirement Fund. By April 23, 2003, the Postal Civil Service Retirement System Funding Reform Act of 2003 had been enacted as P.L. 108-18. Its proponents said that the act would provide some much-needed financial breathing room but warned that it would be a serious mistake to let that relief forestall consideration of long-range reforms. They also recognized that Congress would need to revisit provisions of the act that put “savings” to the Postal Service in an escrow fund that could not be used for regular operations and obligations, and that transferred the obligation to pay retirement benefits based on military service from the Treasury to the Postal Service. Both provisions will have a major impact on postage rates if they are not changed.

The Senate Governmental Affairs Committee has held eight hearings on the report of the President’s Commission, the House Government Reform Special Panel held three, and there was also a joint hearing of the two bodies on March 23, 2004. Following the hearings, both committees drafted and unanimously reported legislation on a bi-partisan basis. However, neither bill was brought to the floor in the 108th Congress.

H.R. 4341 (McHugh)

On May 12, 2004, H.R. 4341 was introduced by Representatives Tom Davis, Waxman, Danny Davis, and McHugh, and ordered to be reported the same day on a unanimous vote of the House Government Reform Committee. According to the committee's summary of the bill, seven overall areas of focus are paramount:

- **Modern Rate Regulation** — shifting the basis of the Postal Rate Commission from a costly, complex scheme of rate cases to a modern system designed to ensure that rate increases in market-dominant products (letters, periodicals, and advertising mail, but not single-piece parcel post) generally do not exceed the annual change in the Consumer Price Index.
- **Combining Market Disciplines with Regulation** — combining market mechanisms with Commission regulation to govern the rates of competitive products, such as Express Mail and Priority Mail. The Postal Service would be given additional pricing freedom, including discounts not available to all mailers, but would lose favored legal treatment for such products.
- **Limitations on Postal Monopoly and Nonpostal Products** — requiring the Postal Service to only offer postal services and for the first time defining exactly what constitutes “postal services.” The bill also revises the authority of the Postal Service to regulate competitors.
- **Reform of International Mail Regulation** — clarifying the authority of the State Department to set international policy, applying customs laws equally to postal and private shipments, and giving the Postal Service the authority to contract with airlines for transport of international mail.
- **Strengthening of the Commission** — giving the Postal Rate Commission “teeth” by granting it subpoena power and a broader scope for regulation and oversight. The PRC would be renamed the “Postal Regulatory Commission.”
- **Establish a Basis for Future Reforms** — mandating several studies, including a comprehensive assessment of the scope and standards for universal service, and a study of the processing and distribution network that would include the statutory and regulatory obstacles preventing the realignment or consolidation of facilities.
- **Pension obligation reforms** — including repealing the escrow provision of P.L. 108-18 and returning responsibility for the military service cost of postal retirees to the Treasury Department, while also requiring the Postal Service to significantly fund its enormous liability for retiree health benefits.

The bill also contained provisions, sought by the APWU, regulating the ability of USPS to offer work-sharing discounts that exceed the savings in mail processing costs avoided by having private sector processors participate in mail sorting. The bill would require that the next appointment to the USPS Board of Governors be made from a list of persons unanimously approved by the postal labor unions. It contains a provision supported by UPS

that would remove single-piece parcel post from the list of market-dominant products, raising the price of this service. Notably, H.R. 4341 does not include workforce measures recommended by the President's Commission, such as major changes to collective bargaining, pay comparability, or fringe benefits, all of which were strongly opposed by postal unions, nor does it deal with the knotty problem of allowing USPS to rationalize its outdated facilities network.

CBO has said that enacting H.R. 4341 would not affect how much the federal government spends on pension or health care benefits for USPS retirees, but it would increase future budget deficits as measured by the unified federal budget. According to the CBO cost estimate, there would be an on-budget saving of \$24.1 billion (from funding the Postal Service Retiree Health Benefits Fund in the Treasury), but an off-budget cost of \$34.5 billion, for a net cost to the unified budget of \$10.4 billion for the FY2005-FY2014 period.

S. 2468 (Collins)

In the Senate, S. 2468, a bi-partisan reform bill was introduced on May 20, 2004, by Senators Collins and Carper. It was marked up by the Senate Governmental Affairs Committee on June 2, and ordered to be reported by a 17-0 vote. The Senate bill had much in common with H.R. 4341, though the two bills differed somewhat in their provisions on work-sharing discounts, service standards, negotiated service agreements, the factors that can be considered (other than inflation) in setting annual rate increases, and changing the terms of the postal board of governors. S. 2468, unlike the House bill, had certain provisions that would make the postal workers injury compensation program more comparable to state programs, and that would encourage injured workers to move to retirement rolls. The Senate bill also lacks a number of provisions in the House bill for studies and resolutions of specific areas of postal law. Both bills would relieve USPS of the escrow and military retirement obligations and require USPS to begin funding future retiree health care obligations. But the two bills have different payment schedules. Postmaster General John Potter warned that the schedule required by the Senate bill would add 6.5% to the next postal rate case. The Senate bill also carries a somewhat higher net cost to the unified budget — \$15.7 billion — than the House bill, according to the CBO cost estimate for S. 2468.

S. 1285 (Carper)

Senator Carper introduced comprehensive postal reform legislation, S. 1285, on June 18, 2003. It was intended as a placeholder pending the recommendations of the President's Commission, and S. 2468 superceded it. The proposal in S. 1285 that attracted the most attention was that USPS realign its operations to meet new service standards. USPS's plan to meet the standards would include the preparation of a list of facilities no longer needed, and the list would be reviewed by an independent commission along the lines of the base closing commissions. S. 2468 did not have a comparable proposal.

Activity in the 109th Congress

H.R. 22 (McHugh)

Representative McHugh re-introduced the House version of postal reform legislation with only minor modifications on the first day of the 109th Congress, for himself, Government Reform Committee Chairman Tom Davis, Ranking Minority Member Waxman, and Representative Danny Davis. According to the committee's website, "overall, the major provisions of the Postal Accountability and Reform Act remain the same as the version

introduced last year.” The Bush Administration has circulated a plain-paper memorandum opposing both the House and the Senate bills in the 108th Congress. The Administration insists that the legislation must be made budget neutral, and characterizes it as “lack[ing] meaningful reforms in the areas of transparency — to prevent cross-subsidization of competitive products with monopoly product revenue; and flexibility — especially with respect to cutting back the high cost of labor (76% of revenue).”

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress, Senate Committee on Governmental Affairs, *U.S. Postal Service: What Can be Done to Ensure its Future Viability; The Report of the Presidential Commission on the U.S. Postal Service: Preserving Access and Affordability; Preserving a Strong United States Postal Service, Workforce Issues, Day 1 and Day 2; Postal Reform: Sustaining the 9 Million Jobs in the \$900 Billion Mailing Industry, Day 1 and Day 2, and The Chairmen’s Perspectives on Governance and Rate-Setting* hearings, 108th Congress, 1st session and 2nd session, September 17, and November 5, 2003; February 4, February 24, March 9, March 11, and April 7, 2004 (Washington: GPO, 2004).

—House Committee on Government Reform, Special Panel on Postal Reform and Oversight, *Answering the Administration’s Call for Postal Reform*, Parts I-III, hearings, 108th Congress, 2nd session, January 28, February 5, February 11, 2004 (Washington: GPO, 2004); *The Postal Service in Crisis: A Joint Senate-House Hearing on Principles for Meaningful Reform*, March 23, 2004 (Washington: GPO, 2004).

—Senate Committee on Appropriations, *Financial Security of the U.S. Postal Service*, special hearing, 107th Congress, 1st session, November 8, 2001 (Washington: GPO, 2002).

—Senate Committee on Governmental Affairs, Subcommittee on International Security, Proliferation and Federal Services, *The Postal Service in the 21st Century: the USPS Transformation Plan*, hearing, 107th Congress, 2nd session, May 13, 2002 (Washington: GPO, 2003).

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—Senate Committee on Governmental Affairs, *The Financial Outlook of the U.S. Postal Service*, hearing, 107th Congress, 1st session, May 15, 2001 (Washington: GPO, 2002).

FOR ADDITIONAL READING

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U.S. Postal Service, *Transformation Plan*, Washington, April 2002. 78 pp. plus appendices.

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CRS Report RS21640. *The Legislative Recommendations of the President's Commission on the United States Postal Service: A Brief Overview*, by Nye Stevens and Kevin Kosar.

CRS Report RL31069. *Postal Service Financial Problems and Stakeholder Proposals*, by Nye Stevens.

CRS Report RS21025. *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Nye Stevens.

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